

Senate File 406 - Reprinted

SENATE FILE 406
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1089)

(As Amended and Passed by the Senate March 22, 2011)

A BILL FOR

1 An Act relating to various matters under the purview of
2 the insurance division of the department of commerce and
3 including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 502.604, subsections 2 and 4, Code 2011,
2 are amended to read as follows:

3 2. *Summary process.* An order under subsection 1 is
4 effective on the date of issuance. Upon issuance of the order,
5 the administrator shall promptly serve each person subject to
6 the order with a copy of the order and a notice that the order
7 has been entered. The order must include a statement of any
8 restitution order, civil penalty, or costs of investigation
9 the administrator will seek, a statement of the reasons for
10 the order, and notice that, within thirty days after receipt
11 of a request in a record from the person, the matter will be
12 scheduled for a hearing. If a person subject to the order does
13 not request a hearing and none is ordered by the administrator
14 within thirty days after the date of service of the order,
15 the order, including an order for restitution, the imposition
16 of a civil penalty, or a requirement for payment of costs of
17 investigation sought in the order, becomes final as to that
18 person by operation of law. If a hearing is requested or
19 ordered, the administrator, after notice of and opportunity
20 for hearing to each person subject to the order, may modify or
21 vacate the order or extend it until final determination.

22 4. *Civil penalty — restitution — corrective action.* In
23 a final order under subsection 3, the administrator may
24 impose a civil penalty up to an amount not to exceed a
25 maximum of five thousand dollars for a single violation or
26 five hundred thousand dollars for more than one violation,
27 order restitution, or take other corrective action as the
28 administrator deems necessary and appropriate to accomplish
29 compliance with the laws of the state relating to all
30 securities business transacted in the state.

31 Sec. 2. Section 505.8, subsections 1 and 10, Code 2011, are
32 amended to read as follows:

33 1. The commissioner of insurance shall be the head of the
34 division, and shall have general control, supervision, and
35 direction over all insurance business transacted in the state,

1 and shall enforce all the laws of the state relating to ~~such~~
2 federal and state insurance business transacted in the state.

3 10. The commissioner may, after a hearing conducted
4 pursuant to chapter 17A, assess fines or penalties, assess
5 costs of an investigation or proceeding, order restitution,
6 or take other corrective action as the commissioner deems
7 necessary and appropriate to accomplish compliance with the
8 laws of the state relating to all insurance business transacted
9 in the state.

10 Sec. 3. Section 505.8, Code 2011, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 19. The commissioner may propose and
13 promulgate administrative rules to effectuate the insurance
14 provisions of the federal Patient Protection and Affordable
15 Care Act, Pub. L. No. 111-148, as amended by the federal
16 Health Care and Education Reconciliation Act of 2010, Pub. L.
17 No. 111-152, and any amendments thereto, or other applicable
18 federal law.

19 Sec. 4. Section 505.18, subsection 2, unnumbered paragraph
20 1, Code 2011, is amended to read as follows:

21 The commissioner in collaboration with the consumer advocate
22 shall prepare and deliver a report to the governor and to the
23 general assembly no later than November 15 of each year that
24 provides findings regarding health spending costs for health
25 insurance ~~plans~~ carriers in the state for the previous ~~fiscal~~
26 calendar year. The commissioner may contract with outside
27 vendors or entities to assist in providing the information
28 contained in the annual report. The report shall provide, at a
29 minimum, the following information:

30 Sec. 5. Section 505.18, subsection 2, paragraph d, Code
31 2011, is amended to read as follows:

32 *d.* A ranking and quantification of those factors that result
33 in higher costs and those factors that result in lower costs
34 for each health insurance ~~plan-offered~~ carrier in the state.

35 Sec. 6. Section 505.19, subsections 3 and 4, Code 2011, are

1 amended to read as follows:

2 3. The consumer advocate shall solicit public comments on
3 each proposed health insurance rate increase application if
4 the increase exceeds the average annual health spending growth
5 rate as provided in subsection 1, and shall post without delay
6 during the normal business hours of the division, all comments
7 received on the insurance division's internet site prior to
8 approval ~~or~~, disapproval, or modification of the proposed rate
9 increase by the commissioner.

10 4. The consumer advocate shall present the public
11 testimony, if any, and public comments received for
12 consideration by the commissioner in determining whether to
13 approve, ~~or disapprove~~, or modify such health insurance rate
14 increase proposals.

15 Sec. 7. Section 507E.8, Code 2011, is amended to read as
16 follows:

17 **507E.8 Peace Law enforcement officer status.**

18 1. Bureau investigators shall have the power and status
19 of peace law enforcement officers who by the nature of their
20 duties may be required to perform the duties of a peace officer
21 when making arrests for criminal violations established as a
22 result of their investigations pursuant to this chapter.

23 2. The general laws applicable to arrests by peace law
24 enforcement officers of the state also apply to bureau
25 investigators. Bureau investigators shall have the power
26 to execute arrest warrants and search warrants for the
27 same criminal violations, serve subpoenas issued for the
28 examination, investigation, and trial of all offenses
29 identified through their investigations, and arrest upon
30 probable cause without warrant a person found in the act of
31 committing a violation of the provisions of this chapter.

32 Sec. 8. Section 508C.5, Code 2011, is amended by adding the
33 following new subsections:

34 NEW SUBSECTION. 2A. "*Authorized assessment*", or the
35 term "*authorized*" when used in the context of an assessment,

1 means that a resolution has been passed by the board of
2 directors of the association whereby an assessment will be
3 called immediately or in the future from member insurers for
4 a specified amount. An assessment is authorized when the
5 resolution is passed.

6 NEW SUBSECTION. 2B. "*Benefit plan*" means a specific
7 employee, union, or association of natural persons benefit
8 plan.

9 NEW SUBSECTION. 2C. "*Called assessment*", or the term
10 "*called*" when used in the context of an assessment, means that
11 a notice has been issued by the association to member insurers
12 requiring that an authorized assessment be paid within the time
13 frame set forth within the notice. An authorized assessment
14 becomes a called assessment when notice is mailed by the
15 association to member insurers.

16 Sec. 9. Section 508C.5, subsection 5, Code 2011, is amended
17 to read as follows:

18 5. "*Covered policy*" means a policy or contract ~~within the~~
19 ~~scope of this chapter as~~ or a portion of a policy or contract
20 for which coverage is provided under section 508C.3.

21 Sec. 10. Section 508C.5, Code 2011, is amended by adding the
22 following new subsections:

23 NEW SUBSECTION. 12A. "*Plan sponsor*" means any of the
24 following:

25 a. The employer in the case of a benefit plan established or
26 maintained by a single employer.

27 b. The employee organization in the case of a benefit plan
28 established or maintained by an employee organization.

29 c. In the case of a benefit plan established or maintained
30 by two or more employers or jointly by one or more employers
31 and one or more employee organizations, the association,
32 committee, joint board of trustees, or other similar group of
33 representatives of the parties who establish or maintain the
34 benefit plan.

35 NEW SUBSECTION. 13A. "*Principal place of business*" of a

1 plan sponsor or a person other than a natural person means the
2 single state in which the natural persons who establish policy
3 for the direction, control, and coordination of the operations
4 of the entity as a whole primarily exercise that function as
5 determined pursuant to section 508C.8A.

6 NEW SUBSECTION. 13B. "*Receivership court*" means a court in
7 an insolvent or impaired insurer's state having jurisdiction
8 over the conservation, rehabilitation, or liquidation of the
9 insurer.

10 Sec. 11. Section 508C.5, subsection 14, Code 2011, is
11 amended to read as follows:

12 14. "*Resident*" means a person to whom a contractual
13 obligation is owed and who resides in a state on the date of
14 entry of a court order that determines a member insurer is an
15 impaired insurer or a court order that determines a member
16 insurer is an insolvent insurer, ~~whichever occurs first~~. A
17 person may be a resident of only one state, which in the case of
18 a person other than a natural person shall be the state of that
19 person's principal place of business. A citizen of the United
20 States who is a resident of a foreign country, or is a resident
21 of a United States possession, territory, or protectorate that
22 does not have an association similar to the association created
23 by this chapter, shall be deemed a resident of the state or
24 domicile of the insurer that issued the policy or contract.

25 Sec. 12. NEW SECTION. 508C.8A **Principal place of business**
26 **— determination.**

27 1. The principal place of business of a plan sponsor or a
28 person other than a natural person shall be determined by the
29 association in its reasonable judgment by considering all of
30 the following factors:

31 a. The state in which the primary executive and
32 administrative headquarters of the entity is located.

33 b. The state in which the principal office of the chief
34 executive officer of the entity is located.

35 c. The state in which the board of directors or similar

1 governing person or persons of the entity conducts the majority
2 of its meetings.

3 d. The state in which the executive or management committee
4 of the board of directors or similar governing person or
5 persons of the entity conducts the majority of its meetings.

6 e. The state from which the management of the overall
7 operations of the entity is directed.

8 2. In the case of a benefit plan sponsored by affiliated
9 companies comprising a consolidated corporation, the principal
10 place of business of the entity shall be deemed to be the state
11 in which the holding company or controlling affiliate has its
12 principal place of business as determined by the association
13 using the factors enumerated in subsection 1. However, if more
14 than fifty percent of the participants in the benefit plan are
15 employed in a single state, that state shall be determined to
16 be the principal place of business of the entity.

17 3. In the case of a benefit plan established or maintained
18 by two or more employers, or jointly by one or more employers
19 and one or more employee organizations, the principal place
20 of business of the entity shall be deemed to be the principal
21 place of business of the association, committee, joint board
22 of trustees, or other similar group of representatives of
23 the parties who establish or maintain the benefit plan. In
24 lieu of a specific or clear designation of the principal
25 place of business of the entity under this subsection, the
26 principal place of business of the entity shall be deemed to
27 be the principal place of business of the employer or employee
28 organization that has the largest investment in the benefit
29 plan in question.

30 Sec. 13. Section 508C.9, subsections 2 through 6, Code 2011,
31 are amended to read as follows:

32 2. There are two classes of assessments as follows:

33 a. Class A assessments shall be ~~made~~ authorized and called
34 for the purpose of meeting administrative and legal costs and
35 other general expenses and examinations conducted under section

1 ~~508C.12, subsection 5,~~ Class A assessments may be authorized
 2 and called whether or not related to a particular impaired or
 3 insolvent insurer.

4 *b.* ~~Class B assessments shall be made~~ authorized and called
 5 to the extent necessary to carry out the powers and duties of
 6 the association under section 508C.8 with regard to an impaired
 7 ~~domestic insurer or an insolvent domestic, foreign, or alien~~
 8 insurer.

9 3. *a.* The amount of a class A assessment shall be
 10 determined by the board and to the extent that class A
 11 assessments do not exceed one hundred dollars per company
 12 in any one calendar year may be made on a per capita basis
 13 and may be authorized and called on a pro rata or non-pro
 14 rata basis. If pro rata, the board may provide that the
 15 assessment be credited against future class B assessments.
 16 The total of all non-pro rata assessments shall not exceed
 17 three hundred dollars per member insurer in any one calendar
 18 year. The amount of a class B assessment shall be allocated
 19 for assessment purposes among the accounts as the liabilities
 20 and expenses of the association, either experienced or
 21 reasonably expected, are attributable to those accounts, all
 22 as determined by the association and on as equitable a basis
 23 as is reasonably practical pursuant to an allocation formula
 24 which may be based on the premiums or reserves of the impaired
 25 or insolvent insurer or on any other standard deemed by the
 26 board in its sole discretion as being fair and reasonable under
 27 the circumstances.

28 *b.* ~~Class A assessments in excess of one hundred dollars~~
 29 ~~per company per calendar year and class B assessments against~~
 30 ~~member insurers for each account shall be in the proportion~~
 31 ~~that the average of the aggregate premiums received on business~~
 32 ~~in this state by each assessed member insurer on policies or~~
 33 ~~contracts related to that~~ covered by each ~~account for the three~~
 34 ~~most recent calendar years for which information is available,~~
 35 ~~preceding the year in which the insurer became impaired or~~

1 insolvent, ~~is or~~, in the case of an assessment with respect to
 2 an impaired insurer, the three most recent calendar years for
 3 which information is available preceding the year in which the
 4 insurer became impaired, bears to the average of the aggregate
 5 premiums received on business in this state for those calendar
 6 years by all assessed member insurers ~~on policies related to~~
 7 ~~that account for the three most recent calendar years for which~~
 8 ~~information is available preceding the assessment.~~

9 c. Assessments for funds to meet the requirements of the
 10 association with respect to an impaired or insolvent insurer
 11 shall not be ~~made~~ authorized or called until necessary to
 12 implement the purposes of this chapter. Classification
 13 of assessments under ~~this subsection~~ 2 and computation
 14 of assessments under this subsection shall be made with
 15 a reasonable degree of accuracy, recognizing that exact
 16 determinations may not always be possible. The association
 17 shall notify each member insurer of its anticipated pro rata
 18 share of an authorized assessment not yet called within one
 19 hundred eighty days after the assessment is authorized.

20 4. The association may abate or defer, in whole or in part,
 21 the assessment of a member insurer if, in the opinion of the
 22 board, payment of the assessment would endanger the ability of
 23 the member insurer to fulfill its contractual obligations. If
 24 an assessment against a member insurer is abated or deferred,
 25 in whole or in part, the amount by which the assessment is
 26 abated or deferred may be assessed against the other member
 27 insurers in a manner consistent with the basis for assessments
 28 set forth in this section. Once the conditions that caused
 29 an abatement or deferral have been removed or rectified, the
 30 member insurer shall pay all assessments that were abated
 31 or deferred pursuant to a repayment plan approved by the
 32 association.

33 5. a. (1) The Subject to the provisions of subparagraph
 34 (2) of this paragraph "a", the total of all assessments upon
 35 authorized by the association with respect to a member insurer

1 ~~for each account of the accounts established pursuant to~~
 2 ~~section 508C.6, and designated as the health insurance account,~~
 3 ~~the life insurance account, the annuity account, and the~~
 4 ~~unallocated annuity contract account,~~ shall not in any one
 5 calendar year exceed two percent of ~~the average of the that~~
 6 ~~member insurer's average annual~~ premiums received in this state
 7 ~~on the policies and contracts covered by the account during~~
 8 ~~the three most recent calendar years for which information is~~
 9 ~~available,~~ preceding the year in which the insurer becomes
 10 impaired or insolvent, ~~on the policies related to that account.~~

11 (2) ~~However, if~~ If two or more assessments are authorized
 12 in one calendar year with respect to insurers that become
 13 impaired or insolvent in different calendar years, the average
 14 annual premiums for purposes of the aggregate assessment
 15 percentage limitation referred to in subparagraph (1) of this
 16 paragraph "a" shall be equal, and limited, to the higher of the
 17 three-year average annual premiums for the applicable account
 18 as calculated pursuant to this section.

19 (3) If the maximum assessment ~~for an account,~~ together
 20 with the other assets of the association in the account,
 21 does not provide in ~~any~~ one year in ~~the~~ either account an
 22 amount sufficient to carry out the responsibilities of the
 23 association, the necessary additional funds shall be assessed
 24 for the account in succeeding years as soon as permitted by
 25 this chapter.

26 b. The board may provide in its plan of operation a method
 27 of allocating funds among claims, whether relating to one
 28 or more impaired or insolvent insurers, when the maximum
 29 assessment will be insufficient to cover anticipated claims.

30 ~~b. c.~~ c. If the maximum assessment ~~under paragraph "a" for any~~
 31 ~~account, other than the health insurance account,~~ either the
 32 life insurance account, the annuity account, or the unallocated
 33 annuity contract account in one year does not provide an amount
 34 sufficient to carry out the responsibilities of the association
 35 ~~in any succeeding year,~~ the board, pursuant to subsection 3,

1 paragraph ~~"a"~~ "b", shall ~~assess~~ access any of the other said
 2 accounts for the necessary additional amount and ~~allocate the~~
 3 ~~amount for assessment among the accounts, other than the health~~
 4 ~~insurance account, in the following sequence: from the life~~
 5 ~~insurance account, to the annuity account, to the unallocated~~
 6 ~~annuity contract account, from the annuity account, to the~~
 7 ~~unallocated annuity contract account, to the life insurance~~
 8 ~~account, from the unallocated annuity contract account, to the~~
 9 ~~annuity account, to the life insurance account; provided that~~
 10 ~~no amount shall be allocated to an account for assessment until~~
 11 ~~the maximum amount has been allocated to the preceding account,~~
 12 subject to the maximum assessments stated in paragraph "a" of
 13 this subsection.

14 6. By an equitable method as established in the plan
 15 of operation, the board may refund to member insurers, in
 16 proportion to the contribution of each insurer to that account,
 17 the amount by which the assets of the account, including assets
 18 accruing from assignment, subrogation, net realized gains, and
 19 income from investments, exceed the amount the board finds is
 20 necessary to carry out during the coming year the obligations
 21 of the association with regard to that account. A reasonable
 22 amount may be retained in any account to provide funds for the
 23 continuing expenses of the association and for future ~~losses if~~
 24 ~~refunds are impractical~~ claims.

25 Sec. 14. Section 508C.9, Code 2011, is amended by adding the
 26 following new subsections:

27 NEW SUBSECTION. 9. a. A member insurer that wishes to
 28 protest all or part of an assessment shall pay when due the
 29 full amount of the assessment as set forth in the notice
 30 provided by the association. The payment shall be made
 31 available to meet association obligations during the pendency
 32 of the protest or any subsequent appeal. The payment shall
 33 be accompanied by a statement in writing that the payment is
 34 made under protest and setting forth a brief statement of the
 35 grounds for the protest.

1 *b.* Within sixty days following the payment of an assessment
2 under protest by a member insurer, the association shall
3 either notify the protesting member insurer in writing of
4 its determination with respect to the protest or notify the
5 protesting member insurer that additional time is required to
6 resolve the issues raised by the protest.

7 *c.* Within thirty days after a final decision has been made,
8 the association shall notify the protesting member insurer in
9 writing of that final decision. Within sixty days of receipt
10 of notice of the final decision, the protesting member insurer
11 may appeal that final decision to the commissioner.

12 *d.* As an alternative to rendering a final decision with
13 respect to a protest of an assessment, the association may
14 refer the protest to the commissioner for a final decision,
15 with or without a recommendation from the association.

16 *e.* If a protest or subsequent appeal of an assessment is
17 upheld in favor of the protesting member insurer, the amount
18 paid in error or the excess shall be refunded to the member
19 insurer. Interest on a refund due a protesting member insurer
20 shall be paid at the rate actually earned by the association
21 during the pendency of the protest or any subsequent appeal.

22 NEW SUBSECTION. 10. The association may request
23 information from member insurers in order to aid in the
24 exercise of the association's power under this section, and the
25 member insurers shall promptly comply with such a request.

26 Sec. 15. Section 508C.11, subsection 1, paragraph c, Code
27 2011, is amended by striking the paragraph.

28 Sec. 16. Section 508C.11, subsection 3, Code 2011, is
29 amended to read as follows:

30 3. ~~An~~ A final action of the board of directors or the
31 association may be appealed to the commissioner by a member
32 insurer if the appeal is taken within ~~thirty~~ sixty days of the
33 member insurer's receipt of notice of the final action being
34 appealed. A final action or order of the commissioner is
35 subject to judicial review pursuant to chapter 17A in a court

1 of competent jurisdiction.

2 Sec. 17. Section 508C.12, subsection 1, paragraphs b
3 through d, Code 2011, are amended to read as follows:

4 b. Report to the board of directors when the commissioner
5 has taken any of the actions set forth in paragraph "a" or has
6 received a report from any other commissioner indicating that a
7 ~~member insurer is impaired or insolvent~~ such action has been
8 taken in another state. Reports to the board of directors
9 shall contain all significant details of the action taken or
10 the report received from another commissioner.

11 c. Report to the board of directors when there is reasonable
12 cause to believe from an examination, whether completed or in
13 process, of a member ~~company~~ insurer that the ~~company~~ insurer
14 may be an impaired or insolvent insurer.

15 d. Furnish to the board of directors the national
16 association of insurance commissioners' ~~early warning tests~~.
17 The insurance regulatory information system ratios, and
18 listing of insurers not included in the ratios, developed
19 by the national association of insurance commissioners, and
20 the board may use the information in carrying out its duties
21 and responsibilities under this section. The report and the
22 information contained in the report shall be kept confidential
23 by the board of directors until such time as it is made public
24 by the commissioner or other lawful authority.

25 Sec. 18. Section 508C.12, subsection 2, Code 2011, is
26 amended to read as follows:

27 2. The commissioner may seek the advice and recommendations
28 of the board of directors concerning any matter affecting
29 the commissioner's duties and responsibilities regarding the
30 financial condition of member ~~companies~~ insurers and companies
31 seeking admission to transact insurance business in this state.

32 Sec. 19. Section 508C.12, subsection 7, Code 2011, is
33 amended by striking the subsection.

34 Sec. 20. Section 508C.16, Code 2011, is amended to read as
35 follows:

1 **508C.16 Immunity — indemnification.**

2 1. A member insurer and its agents and employees, the
 3 association and its agents and employees, members of the board
 4 of directors, and the commissioner and the commissioner's
 5 representatives are not liable for any action taken by them
 6 or omission by them while acting within the scope of their
 7 employment and in the performance of their powers and duties
 8 under this chapter and such immunity granted under this section
 9 shall extend to their participation in any organization of one
 10 or more state associations of similar purposes and to that
 11 organization and its agents and employees.

12 2. Sections 490.850 through 490.859 apply to the
 13 association.

14 Sec. 21. Section 508C.17, Code 2011, is amended to read as
 15 follows:

16 **508C.17 Stay of proceedings — reopening default judgments.**

17 Proceedings in which the insolvent insurer is a party in a
 18 court in this state shall be stayed ~~sixty~~ one hundred eighty
 19 days from the date an order of liquidation, rehabilitation,
 20 or conservation is final to permit proper legal action by the
 21 association on matters germane to its powers or duties. The
 22 association may apply to have a judgment under a decision,
 23 order, verdict, or finding based on default, set aside by the
 24 same court that entered the judgment, and shall be permitted to
 25 defend against the suit on the merits.

26 Sec. 22. Section 508C.18, Code 2011, is amended to read as
 27 follows:

28 **508C.18 Prohibited advertisements.**

29 A person, including an insurer, agent or affiliate of an
 30 insurer, shall not make, publish, disseminate, circulate, or
 31 place before the public, or cause directly or indirectly, to
 32 be made, published, disseminated, circulated, or placed before
 33 the public in a newspaper, magazine, or other publication,
 34 or in the form of a notice, circular, pamphlet, letter, or
 35 poster, or over a radio station or television station, or in

1 any other way, an advertisement, announcement, or statement,
 2 written or oral, which uses the existence of the insurance
 3 guaranty association of this state for the purpose of sales,
 4 solicitation, or inducement to purchase any form of insurance
 5 covered by this chapter. However, this section does not apply
 6 to the association or any other entity which does not sell or
 7 solicit insurance.

8 Sec. 23. NEW SECTION. 508C.18A Notice to policyholders —
 9 summary of chapter and disclosure.

10 1. a. Within one hundred eighty days after enactment of
 11 this section, the association shall prepare a summary document
 12 describing the general purposes and current provisions of
 13 this chapter and containing a disclosure in compliance with
 14 subsection 2. This summary document shall be submitted to the
 15 commissioner for approval. The approved summary document and
 16 disclosure shall be delivered to the owner of an insurance
 17 policy or contract as provided in this section.

18 b. This subsection is repealed July 1, 2012.

19 2. a. On or after March 1, 2012, an insurer shall not
 20 deliver an insurance policy or contract in Iowa to the owner
 21 of the policy or contract unless a summary document describing
 22 the general purposes and current provisions of this chapter
 23 and containing a disclosure in compliance with subsection 3 is
 24 delivered to the policy or contract owner at the same time.

25 b. The summary document shall also be available upon request
 26 by an insurance policy or contract owner.

27 c. The distribution, delivery, contents, or interpretation
 28 of this summary document does not guarantee that either
 29 the insurance policy or contract or the owner of the policy
 30 or contract is covered in the event of the impairment or
 31 insolvency of a member insurer.

32 d. The summary document shall be revised by the association
 33 and approved by the commissioner as amendments to this chapter
 34 may require. Failure to receive a summary document does not
 35 give the insurance policy or contract owner, certificate

1 holder, or insured any greater rights than those stated in this
2 chapter.

3 3. The summary document prepared pursuant to this section
4 shall contain a clear and conspicuous disclosure on its face.
5 The commissioner shall establish the form and content of the
6 disclosure which shall do all of the following:

7 a. State the name and address of the association and the
8 Iowa insurance division.

9 b. Prominently warn the insurance policy or contract owner
10 that the association may not cover the policy or contract or,
11 if coverage is available, it will be subject to substantial
12 limitations and exclusions and conditioned on continued
13 residence in this state.

14 c. State the types of insurance policies and contracts for
15 which the association will provide coverage.

16 d. State that the insurer and its agents are prohibited by
17 law from using the existence of the association for the purpose
18 of sales, solicitation, or inducement to purchase any form of
19 insurance.

20 e. State that the insurance policy or contract owner should
21 not rely on coverage from the association when selecting an
22 insurer.

23 f. Explain rights available and procedures for filing a
24 complaint to allege a violation of any provisions of this
25 chapter.

26 g. Provide other information as directed by the
27 commissioner, including but not limited to sources for
28 information about the financial condition of an insurer
29 provided that the information is not proprietary and is subject
30 to disclosure under chapter 22.

31 4. A member insurer shall retain evidence of compliance with
32 the provisions of this section for as long as the insurance
33 policy or contract for which the notice is given remains in
34 effect.

35 Sec. 24. Section 511.8, subsection 16, Code 2011, is amended

1 by adding the following new paragraph:

2 NEW PARAGRAPH. *h.* Financial instruments used in hedging
3 transactions and securities pledged as collateral for financial
4 instruments used in highly effective hedging transactions
5 eligible for inclusion in the legal reserve under subsection
6 22 may be made a part of the deposit by filing a verified
7 statement of the financial instruments used or securities
8 pledged pursuant to the terms and conditions of the applicable
9 hedging transaction agreement or the applicable collateral or
10 other credit support agreement.

11 Sec. 25. Section 511.8, subsection 22, Code 2011, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. *i.* Securities held in the legal reserve of
14 a life insurance company or association pledged as collateral
15 for financial instruments used in highly effective hedging
16 transactions as defined in the national association of
17 insurance commissioners' Statement of Statutory Accounting
18 Principles No. 86 shall continue to be eligible for inclusion
19 on the legal reserve of the life insurance company or
20 association subject to all of the following:

21 (1) The life insurance company or association does not
22 include the financial instruments used in highly effective
23 hedging transactions for which the securities are pledged as
24 collateral in the legal reserve of the life insurance company
25 or association, provided, however, that this subparagraph
26 shall not exclude securities pledged to a counterparty,
27 clearing organization, or clearinghouse on an upfront basis
28 in the form of initial margin, independent amount, or other
29 securities pledged as a precondition of entering into financial
30 instruments used in highly effective hedging transactions from
31 inclusion in the legal reserve of the life insurance company
32 or association.

33 (2) Securities pledged as collateral for financial
34 instruments used in highly effective hedging transactions are
35 not eligible in excess of ten percent of the legal reserve of

1 the life insurance company or association, less any financial
 2 instruments used in hedging transactions held in the legal
 3 reserve under this subsection.

4 (3) Securities pledged to a counterparty, clearing
 5 organization, or clearinghouse on an upfront basis in
 6 the form of initial margin, independent amount, or other
 7 securities pledged as a precondition of entering into financial
 8 instruments used in highly effective hedging transactions are
 9 not eligible in excess of one percent of the legal reserve of
 10 the life insurance company or association.

11 Sec. 26. Section 513B.2, subsection 18, Code 2011, is
 12 amended to read as follows:

13 18. "*Small employer*" means a person actively engaged in
 14 business who, on at least fifty percent of the employer's
 15 working days during the preceding year, employed ~~not less than~~
 16 ~~two~~ at least one and not more than fifty full-time equivalent
 17 eligible employees. In determining the number of eligible
 18 employees, companies which are affiliated companies or which
 19 are eligible to file a combined tax return for purposes of
 20 state taxation are considered one employer.

21 Sec. 27. Section 514C.13, subsection 1, paragraph j, Code
 22 2011, is amended to read as follows:

23 j. "*Small employer*" means a person actively engaged in
 24 business who, during at least fifty percent of the employer's
 25 working days during the preceding calendar year, employed ~~not~~
 26 ~~less than two~~ at least one and not more than fifty full-time
 27 equivalent employees.

28 Sec. 28. Section 514C.18, subsection 1, paragraph a, Code
 29 2011, is amended by striking the paragraph and inserting in
 30 lieu thereof the following:

31 a. Equipment and supplies.

32 Sec. 29. Section 515.125, subsection 1, Code 2011, is
 33 amended to read as follows:

34 1. Unless otherwise provided in section 515.127, 515.128,
 35 515.129, 515.129A, 515.129B, or 515.129C, a policy or contract

1 of insurance provided for in this chapter shall not be
2 forfeited, suspended, or canceled except by notice to the
3 insured as provided in this chapter. A notice of cancellation
4 is not effective unless mailed or delivered by the insurer to
5 the named insured at least thirty days before the effective
6 date of cancellation or, where cancellation is for nonpayment
7 of a premium, assessment, or installment provided for in the
8 policy, or in a note or contract for the payment thereof, at
9 least ten days prior to the date of cancellation. The notice
10 may be made in person, or by sending by mail a letter addressed
11 to the insured at the insured's address as given in or upon
12 the policy, anything in the policy, application, or a separate
13 agreement to the contrary notwithstanding.

14 Sec. 30. Section 515.126, Code 2011, is amended to read as
15 follows:

16 **515.126 Cancellation of policy — notice to insured or**
17 **mortgagee.**

18 1. Unless otherwise provided in section 515.127 ~~or~~,
19 515.128, 515.129, 515.129A, 515.129B, or 515.129C, at any time
20 after the maturity of a premium, assessment, or installment
21 provided for in the policy, or a note or contract for the
22 payment thereof, or after the suspension, forfeiture, or
23 cancellation of a policy or contract of insurance, the insured
24 may pay to the company the customary short rates and costs of
25 action, if one has been commenced or judgment rendered thereon,
26 and may, if the insured so elects, have the policy and all
27 contracts or obligations connected with the policy, whether
28 in judgment or otherwise, canceled, and all such policy and
29 contracts shall be void; and in case of suspension, forfeiture,
30 or cancellation of a policy or contract of insurance, the
31 insured is not liable for a greater amount than the short
32 rates earned at the date of the suspension, forfeiture, or
33 cancellation and the costs of action provided for in this
34 section.

35 2. If the policy is canceled by the insurance company,

1 the insurer may retain only the pro rata premium, and if the
 2 initial cash premium, or any part of the premium, has not been
 3 paid, the policy may be canceled by the insurance company by
 4 giving notice to the insured as provided in section 515.125
 5 and ten days' notice to the mortgagee, or other person to whom
 6 the policy is made payable, if any, without tendering any
 7 part of the premium, anything to the contrary in the policy
 8 notwithstanding.

9 Sec. 31. Section 515.129A, subsection 1, Code 2011, is
 10 amended to read as follows:

11 1. After a personal lines policy or contract of insurance
 12 which has been in effect for more than sixty days or more, the
 13 policy or contract shall not be canceled except by notice to
 14 the insured as provided in this chapter.

15 Sec. 32. Section 515D.5, subsection 1, Code 2011, is amended
 16 to read as follows:

17 1. a. Notwithstanding the provisions of ~~sections 515.125~~
 18 ~~through 515.127~~ section 515.129A, a notice of cancellation of
 19 a policy shall not be effective unless mailed or delivered by
 20 the insurer to the named insured at least thirty days prior to
 21 the effective date of cancellation, or, where the cancellation
 22 is for nonpayment of premium notwithstanding the provisions
 23 of ~~sections 515.125 and 515.127~~ section 515.129A, at least
 24 ten days prior to the date of cancellation. A post office
 25 department certificate of mailing to the named insured at
 26 the address shown in the policy shall be proof of receipt of
 27 such mailing. Unless the reason accompanies the notice of
 28 cancellation, the notice shall state that upon written request
 29 of the named insured, mailed or delivered to the insurer not
 30 less than fifteen days prior to the date of cancellation, the
 31 insurer will state the reason for cancellation together with
 32 notification of the right to a hearing before the commissioner
 33 within fifteen days as provided in this chapter.

34 b. When the reason does not accompany the notice of
 35 cancellation, the insurer shall, upon receipt of a timely

1 request by the named insured, state in writing the reason
2 for cancellation. A statement of reason shall be mailed or
3 delivered to the named insured within five days after receipt
4 of a request.

5 Sec. 33. Section 515D.7, subsection 1, Code 2011, is amended
6 to read as follows:

7 1. Notwithstanding the provisions of sections 515.125
8 ~~through~~, 515.128, 515.129B, and 515.129C, an insurer shall
9 not fail to renew a policy except by notice to the insured
10 as provided in this chapter. A notice of intention not to
11 renew shall not be effective unless mailed or delivered by the
12 insurer to the named insured at least thirty days prior to
13 the expiration date of the policy. A post office department
14 certificate of mailing to the named insured at the address
15 shown in the policy shall be proof of receipt of such mailing.
16 Unless the reason accompanies the notice of intent not to
17 renew, the notice shall state that, upon written request of the
18 named insured, mailed or delivered to the insurer not less than
19 thirty days prior to the expiration date of the policy, the
20 insurer will state the reason for nonrenewal.

21 Sec. 34. Section 518C.3, subsection 4, paragraph b,
22 subparagraph (3), Code 2011, is amended to read as follows:

23 (3) ~~An A fee or other amount due an relating to goods or~~
24 ~~services sought by or on behalf of an attorney, adjuster, or~~
25 ~~witness as a fee for services rendered to, or other provider of~~
26 goods or services retained by the insolvent insurer or by an
27 insured prior to the date the insurer was declared insolvent.

28 Sec. 35. Section 518C.3, subsection 4, paragraph b, Code
29 2011, is amended by adding the following new subparagraphs:

30 NEW SUBPARAGRAPH. (4A) A fee or other amount sought by or
31 on behalf of an attorney, adjuster, witness, or other provider
32 of goods or services retained by the insured or claimant
33 in connection with the assertion of any claim, covered or
34 otherwise, against the association.

35 NEW SUBPARAGRAPH. (4B) A claim filed with the association

1 or with a liquidator for protection afforded under the
2 insured's policy or contract for incurred but not reported
3 losses or expenses.

4 Sec. 36. Section 518C.5, Code 2011, is amended to read as
5 follows:

6 **518C.5 Board of directors.**

7 1. The board of directors of the association shall
8 consist of the officers and directors of the mutual insurance
9 association of Iowa or its successor association, but only
10 if such officers and directors are employed by a corporation
11 organized as a county mutual insurance association pursuant to
12 chapter 518 or a state mutual insurance association pursuant to
13 chapter 518A.

14 2. An officer and director of the mutual insurance
15 association of Iowa shall serve in the same capacity on the
16 association board as the officer or director serves the mutual
17 insurance association of Iowa or its successor association, but
18 only if the officer and director is employed by a corporation
19 organized as a county mutual insurance association pursuant to
20 chapter 518 or a state mutual insurance association pursuant to
21 chapter 518A.

22 Sec. 37. Section 518C.6, subsection 1, paragraph a,
23 subparagraph (2), subparagraph division (b), Code 2011, is
24 amended to read as follows:

25 (b) An amount not exceeding the lesser of the policy
26 limits or ~~three~~ five hundred thousand dollars per claim for
27 all covered claims for all damages arising out of any one or a
28 series of accidents, occurrences, or incidents, regardless of
29 the number of persons making claims or the number of applicable
30 policies.

31 Sec. 38. Section 518C.15, Code 2011, is amended to read as
32 follows:

33 **518C.15 Immunity.**

34 ~~Liability~~ There shall be no liability on the part of, and a
35 no cause of action of any nature shall not arise against, any

1 member insurer, the association, or its agents or employees,
 2 the board of directors, any committee established for the
 3 purpose of administering the affairs of the association, or any
 4 person serving as an alternate or substitute representative
 5 director of the association, or the commissioner, or the
 6 commissioner's representatives, for any reasonable action taken
 7 or any reasonable failure to act by them in the performance of
 8 their duties and execution of powers as provided for under this
 9 chapter.

10 Sec. 39. Section 521.1, subsection 4, Code 2011, is amended
 11 to read as follows:

12 4. "*Company*" means a company or association organized under
 13 chapter 508, ~~511~~ 514B, 515, 518, 518A, or 520, and includes a
 14 mutual insurance holding company organized pursuant to section
 15 521A.14.

16 Sec. 40. Section 521.2, subsection 1, Code 2011, is amended
 17 to read as follows:

18 1. One or more domestic mutual insurance companies
 19 organized under chapter 491 may merge or consolidate with a
 20 domestic or foreign mutual insurance company as provided in
 21 this chapter. ~~Sections 491.102 through 491.105 shall not be~~
 22 ~~applicable to a merger or consolidation of a domestic mutual~~
 23 ~~insurance company pursuant to this chapter.~~

24 Sec. 41. Section 521.2, Code 2011, is amended by adding the
 25 following new subsections:

26 NEW SUBSECTION. 5. One or more foreign or domestic stock
 27 insurance companies may merge into a domestic mutual insurance
 28 company organized under chapter 491 as provided in this
 29 chapter.

30 NEW SUBSECTION. 6. One or more domestic health maintenance
 31 organizations or limited service organizations formed under
 32 chapter 514B may merge into a domestic insurance company
 33 organized under chapter 490 or chapter 491 as provided in this
 34 chapter.

35 NEW SUBSECTION. 7. Sections 491.102 through 491.105 shall

1 not be applicable to a merger or consolidation of a domestic
2 mutual insurance company pursuant to this chapter.

3 Sec. 42. Section 521E.3, subsection 1, paragraph a,
4 unnumbered paragraph 1, Code 2011, is amended to read as
5 follows:

6 The filing of a risk-based capital report by an insurer which
7 indicates either any of the following:

8 Sec. 43. Section 521E.3, subsection 1, paragraph a, Code
9 2011, is amended by adding the following new subparagraph:

10 NEW SUBPARAGRAPH. (3) For a property and casualty insurer,
11 the insurer's total adjusted capital is greater than or equal
12 to its company-action-level risk-based capital but less than
13 the product of its authorized-control-level risk-based capital
14 and three and triggers the trend test determined in accordance
15 with the trend test calculation included in the property and
16 casualty risk-based capital instructions.

17 Sec. 44. Section 521F.4, subsection 1, Code 2011, is amended
18 to read as follows:

19 1. "*Company-action-level event*" means any of the following:

20 a. The filing of a risk-based capital report by a health
21 organization which indicates that the health organization's
22 total adjusted capital is greater than or equal to its
23 regulatory-action-level risk-based capital but less than its
24 company-action-level risk-based capital.

25 b. The filing of a risk-based capital report by a health
26 organization which indicates that the health organization has
27 total adjusted capital which is greater than or equal to its
28 company-action-level risk-based capital but less than the
29 product of its authorized-control-level risk-based capital and
30 three and triggers the trend test determined in accordance with
31 the trend test calculations included in the health risk-based
32 capital instructions.

33 ~~b.~~ c. Notification by the commissioner to a health
34 organization of an adjusted risk-based capital report that
35 indicates an event in paragraph "a" or "b", provided the health

1 organization does not challenge the adjusted risk-based capital
2 report and request a hearing pursuant to section 521F.8.

3 ~~c.~~ d. If a hearing is requested pursuant to section 521F.8,
4 notification by the commissioner to the health organization
5 after the hearing that the commissioner has rejected the health
6 organization's challenge of the adjusted risk-based capital
7 report indicating the event in paragraph "a" or "b".

8 Sec. 45. Section 522B.11, Code 2011, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 7. *a.* Unless an insurance producer
11 holds oneself out as an insurance specialist, consultant, or
12 counselor and receives compensation for consultation and advice
13 apart from commissions paid by an insurer, the duties and
14 responsibilities of an insurance producer are limited to those
15 duties and responsibilities set forth in Sandbulte v. Farm
16 Bureau Mut. Ins. Co., 343 N.W.2d 457 (Iowa 1984).

17 *b.* The general assembly declares that the holding of
18 Langwith v. Am. Nat'l Gen. Ins. Co., (No. 08-0778) (Iowa
19 2010) is abrogated to the extent that it overrules Sandbulte
20 and imposes higher or greater duties and responsibilities on
21 insurance producers than those set forth in Sandbulte.

22 Sec. 46. Section 523A.206, subsection 1, Code 2011, is
23 amended to read as follows:

24 1. The commissioner may conduct an examination under
25 this chapter of any seller as often as the commissioner
26 deems appropriate. If a seller has a trust arrangement, the
27 commissioner shall conduct an examination of such seller doing
28 business in this state not less than once every ~~three~~ five
29 years unless the seller has provided to the commissioner, on
30 an annual basis, a certified copy of an audit conducted by an
31 independent certified public accountant verifying compliance
32 with this chapter. The commissioner may require an audit of
33 a seller, or other person by a certified public accountant
34 to verify compliance with the requirements of this chapter,
35 including rules adopted and orders issued pursuant to this

1 chapter.

2 Sec. 47. Section 523I.213A, subsection 1, Code 2011, is
3 amended to read as follows:

4 1. The commissioner or the commissioner's designee may
5 conduct an examination under this chapter of any cemetery as
6 often as the commissioner deems appropriate. If a cemetery
7 has a trust arrangement, the commissioner shall conduct an
8 examination not less than once every ~~three~~ five years.

9 Sec. 48. REPEAL. Section 515.135, Code 2011, is repealed.

10 Sec. 49. EFFECTIVE DATE. The following provision or
11 provisions of this Act take effect January 1, 2014:

12 1. The section of this Act amending section 513B.2,
13 subsection 18.

14 2. The section of this Act amending section 514C.13,
15 subsection 1, paragraph "j".